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GENERAL PROVISIONS

§ 154.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUFFER STRIP. A strip of land no less than five feet in width containing evergreen shrubs spaced not more than five feet apart, and not less than one row of dense shrubs five feet or more in height after three growing seasons which shall be planted, trimmed and maintained continuously in a healthy growing condition by the property owner. (*Optional.* Where evergreen shrubs are deemed inappropriate because of limited lot space or other reasons, a wooden structure screen fence manufactured of suitable salt treated pine, or cedar, cypress, or redwood lumber not less than five feet or more than eight feet high may be erected and maintained in good condition by the property owner with the approval and/or recommendation of the Planning Board of the county.)

CORNER LOT. A lot abutting upon two or more streets at an intersection.

COUNTY COMMISSIONERS. The County Board of Commissioners.

CUL-DE-SAC. A short street permanently terminated at one end by a vehicular turn-around.

DEDICATION. A gift by a property owner to another party without any consideration being received for transfer. The dedication is made by written instrument and is completed with a written acceptance.

EASEMENT. A grant by the property owner for use by the public, a corporation, or person(s), of a strip of land for specified purposes.

FLOOD PRONE AREAS. Areas indicated on the flood hazard boundary maps of the Federal Emergency Management Agency to be susceptible to inundation during a 100-year flood. In the absence of 100-year flood data, other flood data may be used if approved by the Federal Emergency Management Agency (FEMA).

LINEAL FAMILY. Lineal family shall include only direct lineal descendants(children, grandchildren, great grandchildren), direct lineal ascendants (father, mother, grandfather, grandmother) and spouses as defined in General Statutes 29-2(4) and 104A-1.

LOT. A portion of a subdivision, or any other parcel of land intended as a unit for transfer of ownership or for development or both. In determining the area and dimensions of a lot, no part of the right-of-way of a road may be included.

LOT OF RECORD. A lot which is part of a subdivision, a plat which has been recorded in the office of the Register of Deeds of the county prior to the adoption of these regulations. or a lot described by metes and bounds, the description of which has been recorded prior to the adoption of these regulations.

MAJOR SUBDIVISION. All subdivisions containing three or more lots.

MANUFACTURED HOME (MOBILE HOMES). A large trailer built on a chassis with a body outfitted as a home meant to be parked more or less permanently at a location differing from travel trailers and campers that are not considered mobile homes. The size of the body of these homes in width for singlewides vary from eight to 14 feet and for doublewides up to 28 feet. Body lengths range from 32 to 83 feet. When two or more such units are designed and built at the factory to be joined together they shall be considered to be one home.

MINIMUM REQUIREMENTS. All sizes, setbacks, and other requirements of these regulations are minimum requirements and may be increased.

MINOR SUBDIVISIONS. All subdivisions not defined as major subdivisions.

OFFICIAL MAPS and PLANS. Any maps and plans officially adopted by the County Commissioners as a guide for development in the county.

OPEN SPACE. An area (land and/or water) generally lacking in manmade structures and reserved for enjoyment.

PLANNED UNIT DEVELOPMENT (PUD). A permitted use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common buildings sites. Common open space must be an element of the plan related to affecting the long-term value of the entire development.

PLANNING BOARD. The Planning Board of the county.

PLANNING DIRECTOR. The Planning Director of the County Planning Department.

PRIVATE STREET. An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. § 136-102.6.

PUBLIC or COMMUNITY SEWAGE SYSTEM. A single system of sewage collection, treatment, and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility, constructed and operated in compliance with the applicable requirements of the State Department of Environment, Health, and Natural Resources, Division of Environmental Management.

PUBLIC WATER SYSTEM. A system for the provision to the public or piped water for human consumption if the system services 15 or more service connections or which regularly serves 25 or more individuals. Two or more water systems that are adjacent and are owned and operated by the same supplier of water and that together serve 15 or more service connections or 25 or more persons is a public water system.

RECREATION AREA or PARK. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate such activities.

RESERVATION. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a period of time.

SHALL. Is always mandatory and not merely directory.

STREET (ROAD). A dedicated and accepted public right-of-way for vehicular traffic.

STREETS and RURAL ROADS.

- (1) *Roads.*

(a) **PRINCIPAL ARTERIAL.** A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designated as principle arterials.

(b) **MINOR ARTERIAL.** A rural link in a network joining cities and larger towns and providing intrastate and intercounty service at relatively high (55 mph) overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.

(c) **MAJOR COLLECTOR.** A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

(d) **MINOR COLLECTOR.** A road which provides service to small local communities and links the locally important traffic generators with rural areas.

(e) **LOCAL ROAD.** A road providing access for adjacent land and for travel over relatively short distances.

(2) *Streets.*

(a) **MAJOR THOROUGHFARES.** Major thoroughfares consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

(b) **MINOR THOROUGHFARES.** Minor thoroughfares are important streets in the city system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Minor thoroughfares may also supplement major thoroughfares assisting in minor through traffic movement and may also serve abutting property.

(c) **LOCAL STREET.** A local street provides access to abutting land and access to higher systems. It offers the lowest level of mobility and through traffic is usually discouraged.

SUBDIVIDER. Any person, firm, corporation, or duly authorized agent who subdivides or develops any land deemed to be a **SUBDIVISION** as defined herein.

SUBDIVISION. As follows.

(1) All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development, whether immediate or future, and includes all division of land involving the dedication of a new street or a change in existing streets, but the

following shall not be included within this definition nor be subject to the regulations established herein:

(a) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to, or exceed, the standards of the county as shown in its subdivision regulations.

(b) The public acquisition by purchase of strips of land for the widening or opening of streets.

(c) The division of land into parcels greater than five acres where the grantor or developer records a right-of-way agreement prior to or simultaneously with the recording of the deed, which said agreement provides for access to the parcel by right-of-way at least 50 feet in width and contains an agreement for construction and maintenance of the road.

(d) The division of a tract in single ownership whose entire area is not greater than two acres into not more than three lots, where no street right-of-way is involved and where the resultant lots are equal to or exceed the standards of the county, as shown in these regulations.

(e) **MINOR SUBDIVISIONS** as this section which abut state maintained roads or meet State Department of Transportation (DOT) specifications for secondary roads and involve no utility extensions and where the resultant lots are equal to, or exceed, the standards of the county as shown in these regulations. This exemption does not apply to parcels, tracts or lots which have been previously subdivided within the past five years.

(f) The division of land pursuant to an order of the General Court of Justice.

(g) The conveyance of a lot or tract for the purpose of dividing land among persons related within the third degree of lineal kinship if the resultant lots are equal to or exceed the standard of the county as shown in its ordinances and regulations.

(2) Plats falling under exemptions of **SUBDIVISION** (1)(a), (b), (c), (d), (e), (f) and (g) shall be stamped “No Approval Required by the County Planning Department” and signed by its authorized representative before recording in the office of the Register of Deeds of the county.

(3) Plats falling under exemptions of **Subdivision** (1) (g) shall be stamped with the following certificate:

“ I (we) hereby understand that this plat is approved as exempt from the Subdivision Ordinance of Davie County. This is a family subdivision and is for the exclusive purpose of conveying land among family members within the third degree of lineal kinship. These lots/tracts shall not be used for the purpose of sale or building development, either now or in the future, except for those family members. Additional approvals may be

§ 154.04 AUTHORITY.

These regulations are adopted under the authority of G.S. Chapter 153A, Article 2.

(Ord. passed 3-21-94)

§ 154.05 JURISDICTION.

These regulations shall govern each and every subdivision of land within the county, except those lands lying within the jurisdiction of any municipality, unless such municipality formally requests the county to enforce these regulations within the municipality's area of jurisdiction. Any municipal governing body may, upon one-year written notice, withdraw its approval of the County Subdivision Regulations and those regulations shall have no further effect within the municipality's jurisdiction.

(Ord. passed 3-21-94)

§ 154.06 SERVICES AND PERMITS.

No street shall be recommended for acceptance for maintenance by the State Department of Transportation, nor shall any permit be issued by any administrative agent of the county, nor shall water, sewer or other county facilities or services be extended to, or connected with, any subdivision until the provisions of these regulations are met. The construction of public roads shall be inspected by the State Department of Transportation for compliance with its standards.

(Ord. passed 3-21-94)

§ 154.07 TRANSFER OF LOTS

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision ordinance or recorded with the register of deeds, provided the contract does all of the following:

- (1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
- (2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
- (3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer

or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

- (4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds.

(Ord. passed 3-20-06)

PLAT PREPARATION AND APPROVAL PROCEDURE

§ 154.20 TECHNICAL REVIEW.

(A) (1) All subdivision plans submitted to the Planning Department shall be subject to a technical review prior to the preliminary approval by the Planning Board.

(2) Pre-Application Meeting

A person intending to submit an application for a preliminary plat approval is strongly encouraged to confer with Planning Staff before submitting the application. At such conference, the Planning Staff shall explain the requirements applicable to the application and shall identify potential conflicts with applicable standards.

(B) The Technical Review Committee (TRC) shall consist of members from the County Departments of Planning, Environmental Health, Inspections, Fire Marshal, Public Works and Water. The County Manager and County Attorney may also be invited to provide comments. Other interested state, federal, and local agencies may be invited to attend as necessary.

(C) The Technical Review Committee is responsible for reviewing all ***SUBDIVISIONS*** as defined under [§ 154.01](#) of these regulations. TRC shall provide the subdivider with comments and suggestions to ensure compliance with this and any other applicable regulations.

(D) Acceptance of Application

The Planning Staff shall review a submitted application and determine whether it complies with submittal requirements. If the application does not comply with submittal requirements, Planning Staff shall notify the applicant of the submittal deficiencies and invite the applicant to revise the application and correct the deficiencies. If or when the application complies with all submittal requirements the Planning Staff shall accept the application as complete and notify the applicant of its acceptance for review.

(E) Staff review

(1) Staff Review

After accepting an application as complete, Planning Staff shall refer it to the Technical Review Committee (TRC). The TRC shall review the application to determine whether the proposed subdivision complies with all applicable regulations, identify any noncompliant features of the proposal, and whenever feasible, suggest modifications to correct noncompliant features.

Before taking final action on the plat the TRC will submit copies of the plat and any other accompanying materials to the following agencies if deemed appropriate by the Planning Director:

- (1) The district highway engineer as to proposed streets, highways and drainage systems,
- (2) The County Health Department as to proposed water and sewerage systems,
- (3) The County Manager,
- (4) The County School Board, as to proposed school sites,
- (5) The US Post Office, (Postal Service) as to proposed street names,
- (6) The State Department of Environment and Natural Resources and US Army Corps of Engineers,
- (7) The US Soil Conservation Service as to soil analysis and drainage,
- (8) Such other agencies the Planning Director may deem necessary.

The Planning Staff shall notify the applicant of the identified noncompliant features and suggested modifications, and invite the applicant to discuss the review comments.

(2) Opportunity to Revise Application

Following receipt of staff review comment and any discussions thereof with the Planning Staff, the applicant shall either: (i) ask Planning Staff to prepare a staff report of the application as submitted; or (ii) notify Planning Staff of intent to revise the application to address staff comments and submit a revised application. If the

Planning Staff receives no response within ten (10) days after notifying the applicant of the application's noncompliant features, he or she shall presume that the applicant asks that the staff take action on the application as submitted.

If the applicant submits a revised application, Planning Staff shall determine whether it continues to comply with submittal requirements. On accepting a revised application as complete, Planning Staff shall review it for correction of previously identified compliant features.

(Ord. passed 3-21-94: Ord. Am. 5-1-06)

§ 154.21 RECORDATION.

No plat of a subdivision within the jurisdiction of the county shall be recorded by the Register of Deeds until final approval has been given by the County Planning Board and signed by the County Planning Board Chairman and/or Planning Director. To obtain final approval of a final plat, the subdivider shall follow the steps in this section.

Building permits required pursuant to GS 153A-357 may be denied for lots that have been illegally subdivided. In addition to other remedies, a county may institute any appropriate action or proceedings to prevent unlawful subdivision of land, to restrain, correct or abate the violation, or to prevent any illegal act or conduct.

(Ord. passed 3-21-94; Am. Ord. 3-20-06)

§ 154.22 SKETCH DESIGN PLAN.

When appropriate, the subdivider shall submit to the Planning Director a sketch plan prior to submitting a preliminary plat.

(A) *Copies.* A minimum of four copies of a sketch plan shall be submitted.

(B) *Scale.* A sketch design shall be drawn at a scale of approximately one inch to 100 feet unless the size of the property dictates a larger scale.

(C) *Contents.* The sketch design plan shall depict or show the information listed under plat requirements, § 154.23(B)“S”, for sketches as shown below.

(D) *Flood data.* Flood data certification shall be required.

(E) *TRC review.* The Technical Review Committee shall review the sketch design plan for general compliance with the regulations and shall advise the subdivider, or his or her authorized agent, of the recommendations for improvement of the sketch design.

(F) *Restrictions.* Any existing and current deed restrictions or restrictive covenants on property to be developed shall be attached to the preliminary plat.

(Ord. passed 3-21-94)

§ 154.23 PRELIMINARY PLAT.

A preliminary plat and appropriate plans shall be submitted to the Planning Department at least ten working days prior to the regularly scheduled planning board meeting, for every subdivision of land located within the territorial jurisdiction of the county.

(A) *Number of copies.* Eight blue or black line copies of the preliminary plat shall be submitted. Only one copy of additional required plans shall be submitted unless the Planning Director deems a need for more copies.

(B) *Plat requirements.* Sketch, preliminary, and final plats shall depict or contain the information indicated on the following table. The letters “S,” “P,” and “F” shall indicate that the information is required for sketch, preliminary, and final plats, respectively.

| <i>PLAT REQUIREMENTS</i> | |
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| S, P, F | <i>A title block containing:</i> |
| | Name of the subdivision and phase (if applicable); |
| | Name, address, and telephone number of owner and owner's agent; |
| | Date or dates survey was conducted and plat was prepared; |
| | Scale denoted graphically and numerically; |
| | Name and address of registered land surveyor, land planner, architect, or engineer responsible for the subdivision. The registration number and seal of the responsible engineer or surveyor shall be required at final approval; and |
| | Name of township, county, and state in which subdivision is located. |
| S, P, F | Sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area. |
| P, F | Tax parcel number of tract(s) to be divided. |
| S, P, F | North arrow according to G.S. § 47-30 and the Standards of Practice for Land Surveying in the state. |
| S, P, F | Total acreage of tract to be subdivided. |
| S, P, F | Number of lots created and average lot size within subdivision. |
| P, F | Boundary survey of tract to be subdivided, distinctly and accurately represented with all bearings and distances shown. |

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| S, P, F | Proposed lot lines, block number, and dimensions of lots. |
| S, P, F | Existing and proposed property lines on the tract to be subdivided and on adjoining properties. |
| S, P, F | The names of adjacent land owners with lot, block, or parcel identifier or other legal reference where applicable. |
| S, P, F | The names of any adjoining subdivisions of record or proposed and under review. |
| S, P, F | Existing structures on the tract to be subdivided. |
| S, P, F | Existing waterways, railroads, bridges, culverts, storm drains, and corporate limits, county lines, or township boundaries, both on the land to be subdivided and the land immediately adjoining. |
| P, F | The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the US Department of Interior's National Register of Historic Places. |
| P, F | Location of all wooded areas, 404 wetlands, rock outcrops, ponds, streams, or other natural feature. |
| P, F | Location and acreage of recreation area to be: Donated to the general public, or Location, acreage, and location of improvements for recreation area to be maintained as per § 154.42(C)(9) of these regulations if land is to be donated in lieu of a fee |
| P, F | The exact location of the flood hazard boundary area, floodway, and floodway fringe areas as determined by the Federal Emergency Management Agency's 100-year flood levels. |
| P | Erosion and sedimentation control plans shall be submitted with the preliminary plat. All plans must conform to the Sedimentation and Pollution Control Act of 1973 and a letter of approval from the State Department of Environment, Health, and Natural Resources, Division of Land Resources shall accompany the preliminary plats. |
| P, F | The zoning classifications of the tract to be subdivided shall be shown. Setbacks for the respective zoning classification shall be indicated on the plat. |
| P, F | Minimum building lines shall be delineated on each lot within the subdivision or indicated by lot on the plat. |
| P | Accompanying the preliminary plat shall be a permit from the US Army Corps of Engineers for all planned crossing of 404 wetlands within the subdivision. |

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| P, F | A note shall be included on the plat that indicates if the proposed subdivision is to be served by public or individual water supply and public or individual sewage treatment systems. |
| P | If on-site sewage treatment and disposal systems are proposed, individual lot-by-lot evaluations shall be made prior to preliminary plat approval. Upon application to the Environmental Health Office, the developer shall accurately map to scale, rough-stake and partially clear those lots to be evaluated by the Environmental Health Office. |
| P | If a public sewage treatment system is proposed, a letter from the County Health Department or State Department of Environment, Health, and Natural Resources, Division of Environmental Management (depending on the type of system) shall be presented with the preliminary plat. This letter shall state that a site investigation has been made and that the site is suitable for the proposed system. All plans for the proposed system shall be under review by the appropriate authority and a copy of such plans shall be presented to the County Planning Department as requested. |
| F | If a public sewage treatment system is proposed, a permit shall be presented from the proper permitting agency for the proposed system. If a permit has not yet been obtained, a letter from the proper permitting agency shall be presented which states that plans for construction of the facility have been approved. (See county zoning chapter for additional special use permit requirements.) |
| P | If a public water system is proposed, a letter shall be provided from the State Department of Environment, Health, and Natural Resources, Division of Environmental Health stating that a site visit has been conducted and the well site has been approved. This letter shall be required prior to preliminary approval. |
| F | If a public water system is proposed, a well construction permit from the State Division of Health Services shall be presented with the final plat. |
| P, F | The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone, and electric service, illustrating connections to existing systems. Plans must show line sizes, the location of fire hydrants, blowoffs, manholes, pumps, force mains, and gate valves, if appropriate, and shall include profiles based upon mean sea level datum for sanitary and storm sewers. |
| P, F | The location and dimension of all planned road, utility, or drainage easements. |
| P | The method of installation of utilities (underground or overhead) shall be indicated on the preliminary plat. |
| P, F | The location and dimension of all proposed and existing streets. |

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| P, F | Existing and platted dedicated streets and rights-of-way on adjoining properties and within the proposed subdivision. |
| P, F | Pavement widths. |
| P | Design engineering data for all corners and curves, including sight distances. |
| P | Typical street cross sections (accompanying the preliminary plat). |
| P, F | Proposed names of all streets. |
| P, F | <i>Type of street dedication.</i> All streets must be designated as either “public” or “private.” Where public streets are involved, the subdivider must submit the subdivision map typical cross section to the State Department of Transportation District Highway Office for review. These plans shall include: a complete site layout, including any proposed future expansion; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the district engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist, typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas. Street name signs shall be provided at all subdivision street intersections and at any other point within the subdivision as deemed necessary by the Planning Director. Signs shall be of a county-approved design and shall be ordered and paid for by the developer prior to final approval. Installation of the signs shall occur after final approval is granted. |
| F | All final plats shall be accompanied by a written statement from the State Department of Transportation, Division of Highways stating that the roads within the subdivision are paved and constructed to DOT standards. This shall apply to all public and private roads. When a performance guarantee is presented to cover road improvement costs, this requirement shall be applied after the completion of road construction. |
| F | When streets are privately dedicated for maintenance, a statement explaining the status of the street must be provided in accordance with § 154.41(C)(9) of these regulations. |
| P | If any street is proposed to intersect with a state maintained road, the subdivider must present written driveway approval as required by the State Department of Transportation, Division of Highways' manual on <i>Driveway Regulations</i> . |
| P | Roadway length shall be indicated for each block and cul-de-sac within the subdivision. Length shall be indicated from intersection to |

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| | intersection where applicable. |
| F | All plats shall be required to provide sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line. These shall include dimensions, bearings or deflection angles, radii, central angles and tangent distance for the centerline of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest .01 of a foot and all angles to the nearest 20 seconds. |
| F | Property corner ties, as required by G.S. § 47-30, shall be required as specified in § 154.46(A) of these regulations. |
| F | Monuments, markers, and control points shall be accurately described and located. |
| P | A topographic map with contour intervals of two feet or less may be required to accompany the preliminary plat as specified by the Planning Director. |
| P, F | When deemed necessary due to the nature of the land to be subdivided or peculiarities in the proposed layout, an environmental impact statement may be required by the Planning Board pursuant to G.S. Chapter 113. |
| F | Deed restrictions, homeowner's association rules, and/or bylaws or similar covenants proposed for the subdivision shall be presented prior to final approval. |
| F | A note shall be included on the Final Plat giving the surveyed distance from the nearest road or street intersection to a front boundary line of the subdivision. |

(C) *Staff Action.*

(1) Following the applicant's request for the staff action on the original application or staff review of a revised application, the Planning Staff shall review and make findings as to the proposed subdivision's compliance with all applicable provisions of this Ordinance. Based on those findings, the Planning Staff shall decide, in writing, to approve the application as submitted, or approve the application subject to conditions, or deny the application.

If the application is denied or approved subject to conditions, the decision shall state the reasons for the denial or conditions. Any conditions of approval shall be limited to requiring specific actions and/or minor changes or additions to, or restrictions on, the proposed subdivision that are deemed necessary to ensure compliance with applicable provisions of this Ordinance.

Planning Staff shall file the decision and send a copy to the applicant, along with a written notice that the decision becomes final unless the applicant:

- (a) submits to Planning Staff a written request that the application be forwarded to the Planning Board, and
- (b) does so within seven (7) days after receiving a copy of the Planning Staff's decision.

If the applicant submits such a request within the prescribed time period, the Planning Staff shall forward the application to the Planning Board for further review and a final decision, and the Planning Staff's decision shall represent the staff report and recommendation for the Planning Board action on the application.

1. *If Application is Accompanied by a Variance Request*

Following the applicants request for a staff action on the original application, or staff review of a revised application, the Planning Staff shall review and based on findings as to the proposed subdivision's compliance with all applicable provisions of this Ordinance, prepare a staff report noting the application's noncompliant features and recommending that the Planning Board approve the application as submitted, or approve the application subject to conditions, or deny the application.

(D) *Development in stages.* When a subdivision is to be developed in stages, a sketch plan may be required. The preliminary plat shall be submitted with a minimum of five lots for each stage. Approval of the preliminary plat shall become null and void after 12 months if the developer does not submit the final plat unless an extension of time is applied for and granted by the Planning Director. This requirement is not to be construed as prohibiting a subdivider from retaining any portion of a tract, a part of which is to be subdivided acreage.

(E) *Review by agencies.* The district highway engineer shall issue a certificate of approval before any applicable subdivision plat is recorded with the Office of the Register of Deeds. Failure on the part of the other agencies to act within 30 days after the preliminary plat has been submitted to the Planning Board shall be deemed as approval.

(F) *Action by Planning Board.*

(1) *Submittal to Board*

If the applicant request the application be forwarded to the Planning Board in accord with the subparagraph above, or if the application is accompanied by a variance request, the Planning Staff shall schedule the application for review by the Planning Board at the Board's next available regularly scheduled meeting. At a reasonable time before the meeting, staff shall send members of the Planning Board and the applicant copies of the application and the staff report.

(2) *Board Review and Action*

At its meeting, the Planning Board shall review the application and staff report. The Board shall, based on findings as to the proposed subdivision's compliance with all applicable provisions of this Ordinance, take action to approve the application as

submitted, approve the application subject to conditions, or deny the application. The Board shall limit conditions of approval to requiring specific actions and/or minor changes or additions to, or restrictions on, the proposed subdivision that it deems reasonably necessary to ensure compliance with applicable provisions of this Ordinance. If the Board denies the application, it shall identify its reasons for doing so.

(3) Opportunity to Revise Application

If the Board discuss the application, the applicant may before the Board takes final action, ask the Board for permission to revise the application to address concerns raised by the Board's discussion. If the Board grants the request, the revised application shall be submitted to the Planning Staff, and shall be reviewed in the same manner as an original application

(4) Notice of Decision

The Planning Staff shall send the applicant written notice of the Planning Board's final decision on the application, and shall file a copy of the decision in his or her office. If the application is denied, the notice shall state the Board's reasons for its decision.

(G) The preliminary plat shall be approved by the Planning Director or designee or Planning Board prior to any grading, construction, installation of improvements, or preparation of the final plat.

(H) *Timely Review of Applications*

The Planning Staff or Planning Board shall review and take action on each preliminary plat which meets the requirements of these regulations within forty-five (45) days after first consideration by the Technical Review Committee.

(Ord. passed 3-21-94; Am. Ord. passed 7-1-96; Am. Ord. passed 9-20-04; Am. Ord. 5-1-06)

§ 154.24 FINAL PLAT.

(A) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the County Board of Commissioners, the subdivider may proceed with the preparation of the final plat and the installation and arrangements for required improvements, or guarantee their installation.

(B) *Performance guarantee.* When the required improvements have not been completed prior to submission of the final plat, the developer is required to guarantee the completion of the required improvements by means satisfactory to the Planning Director in consultation with the developer's engineers and/or surveyors in an amount equal to the estimated cost of construction of the required improvements. Performance guarantees may be reviewed by the Planning Board at the request of the Planning Director. Performance guarantees shall run for a period of one year and may be renewed for successive one year periods upon written approval from the Planning Director.

(C) *Defects guarantee.*

(1) The Planning Board shall require a guarantee on utility taps, ramps, streets, pavement, sidewalks, drainage facilities, and water and sewer lines and other improvements against defects for one year from the date of acceptance of construction and/or installation. The amount shall be determined by the Planning Director in consultation with the developer's engineers and/or surveyors. One of the guarantees listed under § 154.24(B) shall be used.

(2) The above defects guarantee requirement will, however, be satisfied if the developer presents written evidence satisfactory to the Planning Director that the contractor building the required improvements guarantees the improvements for a period of one year from the date of acceptance of construction and/or installments.

(D) *The final plat.* The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time; such portion shall conform to all the requirements of these regulations.

(E) *Plat submitted.* The subdivider shall submit the final plat, so marked, to the Planning Director. The Planning Director shall have 30 days to review the final plat. The final plat shall not be submitted more than 12 months after the date on which the preliminary plat was approved unless a written extension of this time limit is granted by the Planning Director on or before the one-year anniversary date of approval. Otherwise such approval shall be null and void.

(F) *Plat prepared.* The final plat shall be prepared by a land surveyor licensed and registered to practice in the state. The final plat shall conform to the preliminary plat as it was approved.

(G) *Number of copies.* Eight copies of the final plat shall be submitted. Two of these shall be on sepia suitable for reproduction to be submitted after recording with the Register of Deeds. Six shall be black or blue prints.

(H) *Size of sheets.* Final plats shall have an outside marginal size of 18 × 24 inches.

(I) *Fees.* Submission of the final plat must be accompanied by a filing fee established by the Board of Commissioners in the county zoning chapter. (See § 155.286.)

(J) *Required certifications.* The following signed certificates shall appear on all copies of the final plat which are submitted to the Planning Board by the subdivider:

(1) *Certificate of ownership and dedication.*

“I (we) hereby certify that I am (we are) the owner(s) of the property described hereon, which is located in the subdivision jurisdiction of Davie County and that I hereby adopt

this subdivision plan with my free consent, established minimum building setback lines and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

Owners Date”

(2) *Certificate of approval of private (on- site) sewage disposal systems.*

“I hereby certify that the Davie County Health Department has evaluated the Subdivision entitled ___ with respect to criteria and conditions established by state law or promulgated thereunder and the same is found to comply with such criteria and conditions EXCEPT as found in such evaluation. For details of this evaluation and for limitations, see the written report on file at the Department.

IMPORTANT NOTICE: THIS CERTIFICATE DOES NOT CONSTITUTE A PERMIT OR APPROVAL OF INDIVIDUAL LOTS IN THE SUBDIVISION FOR INSTALLATION OF SEWAGE FACILITIES.

Date County Health Official

(certificate not required for subdivisions which are connected, or will be connected, to existing publicly-owned and operated water supply and sewage disposal systems)”

(3) *Certificate of survey and accuracy.*

“I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ___, Line ___, Page ___, and the like) (other); that the error of closure as calculated by latitudes and departures is 1:_____, that the boundaries not surveyed are shown as broken lines plotted from information found in Book ___, Page ___; that this map was prepared in accordance with G.S. § 47-30 as amended. Witness my hand and seal this ___ day of ___, 19 __.

Registered Land Surveyor

License or Registration Number”

(4) *Declaration of road design and construction (subdivider to maintain or not maintain roads):*

“I hereby declare that, to the best of my knowledge, the non-state maintained road(s) allowed under §§ 154.40 through 154.47 of the County Subdivision Regulations and which are a part of this subdivision have been designed and (will be) built to the standards of the regulation. I also hereby declare that once the road(s) is constructed to the required standards, I will (no longer) be responsible for maintenance of these roads.”

(5) *Perpetual ownership and/or maintenance of streets, roads, and right-of-ways.* By written document sufficient for recording in the Office of the Register of Deeds, either an owners' association is created and established by the subdivider through the recording of restrictive covenants or other documents creating the association, or an agreement satisfactory to the Planning Board is provided by the developer, for the perpetual ownership and/or maintenance of streets and right-of-way within the subdivision, and/or which provides exclusive access to the subdivision of all future lot owners, then the street and rights-of-way may be designated as “private residential streets.” In such cases the subdivider shall grant to or dedicate to either the owner's association or to the property owners within the subdivision rights-of-way for all streets in accordance with the private residential street standards set forth hereafter, but the subdivider shall not be required to dedicated the street rights-of-way for public use. All private residential streets shall be designed and constructed in accordance with the standards set forth in this section.

(6) *Disclaimer in wetland.* If any wetland areas are located on the final plat, the following disclaimer shall be required:

“Section 404 jurisdictional wetland areas shown on this plat reflect the laws and published regulations in effect at the time of Planning Board review and approval of this subdivision. Amendments to the wetlands jurisdictional regulations may occur and, as such, wetland area boundary lines could be subject to change. A reevaluation by a corps of engineers representative is recommended within three years after plat approval to ensure the accuracy of jurisdictional boundaries at the time of development.”

(K) *Review procedure.* Final plats shall be reviewed under the following procedure:

(1) The Planning Director shall approve or disapprove the final plat within 30 days of submittal. If the Planning Director approves the final plat, such approval shall be indicated on each copy of the final plat by the following signed certificate:

(a) "I hereby certify that the subdivision plat shown hereon has been found to comply with the County Subdivision Regulations, with the exception of such variances, if any, as are noted in the minutes of the Planning Board and that it has been approved for recording in the Office of the Register of Deeds. It is hereby noted that such approval for recordation does not include approval to install and utilize sanitary facilities nor does it include approval for the construction or occupancy of buildings or structures.

Director, County Planning Department

(b) If the Planning Director disapproves the final plat, the Planning Director shall state in writing the reasons for such action. One copy of this statement shall be transmitted to the subdivider within ten days of disapproval; one copy shall be

retained by the Planning Director. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with these regulations and resubmit for reconsideration by the Planning Director.

(c) The approval or denial of a final subdivision plat may be appealed to the Davie County Board of Adjustment in accordance with § 155.234 of the Davie County Zoning Ordinance. The Board of Adjustment shall decide all petitions for appeal from the decision made by the Planning Director to approve or deny a final plat. Any reversal, modification or affirmation of a decision made by the Planning Director will be entered in writing in the minutes of the Board of Adjustment with the justification set forth. The Board of Adjustment may decide to reverse or modify the decision under appeal upon finding an error in the application of these regulations on the part of the Planning Director.

(2) The final plat shall be approved by the County Board of Commissioners prior to recording.

(L) *Distribution of copies.* When the final plat is approved by the Planning Director, the final plat shall be returned to the subdivider. Two reproducible copies shall be filed by the subdivider with the Register of Deeds of the county.

(M) *Abbreviated procedure.* The abbreviated procedure affords the sale of lots and/or tracts of land which qualify as subdivisions under the definition in the state statutes, but which have little impact on the county. Subdivisions of lands which involve no street right-of-way dedication, no utility extensions, ten lots or less, and ten total acres or less may follow the abbreviated procedure. This procedure requires only a final plat be submitted to the Planning Director for approval. If the area proposed for subdivision is part of a larger tract which the subdivider owns, or has an option on or legal interest in, the subdivision shall not qualify under the abbreviated procedure. The Planning Director shall approve or disapprove the final plat of an abbreviated subdivision pursuant to division (K) of this section.

(N) *Recording of the final plat.* The subdivider shall file the approved final plat with the Register of Deeds of the County for recording within six months after the date of the Planning Director's approval; otherwise, such approval shall be null and void.

(O) *Resubdivision procedures.* For any replatting or resubdivision of land, the same procedure, rules, and regulations shall apply as prescribed herein for an original subdivision except that lot sizes may be varied on an approved plat after recording provided that:

(1) No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plat;

(2) Drainage, easements, or rights-of-way shall not be changed;

(3) Street alignment and block sizes shall not be changed;

(4) Property lines between the back of the lots shall not be changed;

(5) The rear portion of lots shall not be subdivided from the front part; and

(6) The character of the area shall be maintained.

(P) *Maintenance of Required Improvements.* The subdivider is responsible for maintenance of all required improvements, including rights-or-way, to the standards of this Ordinance until such time as a unit of government, public or private utility, homeowners' association, property owners association, lot owner, or other legal entity assumes formal, legal responsibility for maintenance of the improvements. The record plat must include the subdivider's signed and notarized acknowledgement of this responsibility. The subdivider must also provide each prospective buyer of any lot shown on the record plat with written disclosure of The subdivider's responsibility for maintaining required improvements

Subdivision Disclosure Statement

1. All required improvements have been certified as complete except for the listed improvements and these shall be completed by the following dates:

| | |
|-------------|------|
| Improvement | Date |
|-------------|------|

2. As Subdivider _____, am (are) responsible for:

a. Construction of all required improvements in accordance with the approved preliminary plat and construction plans;

b. Completion of all improvements per schedule above;

c. Maintenance of each required improvement until assumed by:

| | |
|-------------|--------|
| Improvement | Entity |
|-------------|--------|

d. Provision to the prospective buyer of any lot shown on this record plat with a written disclosure of (a) my (our) responsibility for completing and maintaining the required improvements and its schedule.

Signature

Notary

(Q) *Perpetual ownership and/or maintenance of private streets, roads, and right-of-ways.* By written document sufficient for recording in the Office of the Register of Deeds, either an owners' association is created and established by

the subdivider through the recording of restrictive covenants or other documents creating the association, or an agreement satisfactory to the Planning Board is provided by the developer, for the perpetual ownership and/or maintenance of streets and right-of-way within the subdivision, and/or which provides exclusive access to the subdivision of all future lot owners, then the street and rights-of-way may be designated as “private streets.” In such cases the subdivider shall grant to or dedicate to either the owner's association or to the property owners within the subdivision rights-of-way for all streets in accordance with the private street standards set forth hereafter, but the subdivider shall not be required to dedicate the street rights-of-way for public use. All private streets shall be designed and constructed in accordance with the standards set forth in this chapter.

(Ord. passed 3-21-94; Am. Ord. passed 9-20-04; Am. Ord. passed 1-18-05; Am. Ord. 11-6-06)

STANDARDS OF DESIGN

§ 154.40 NAME OF SUBDIVISION.

The name of the subdivision shall not duplicate the name of an existing subdivision within the county's jurisdiction.

(Ord. passed 3-21-94)

§ 154.41 STREETS AND ROADS.

(A) In any new subdivision the street layout shall conform to the arrangement, width, and location indicated by any official plans or maps for the county. In areas for which such plans have not been completed, the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams, to public convenience and safety, and to the proposed use of land to be served by such streets. All streets shall provide for the continuation or appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding tracts.

(B) All streets and roads within subdivisions or accessing proposed subdivisions, unless qualifying as exempt under § 154.41(C)(1), shall be paved and constructed according to the secondary road specifications of the State Department of Transportation (NCDOT) pursuant to “Subdivision Roads, Minimum Construction Standards.” All streets shall be required to show a minimum 60-foot right-of-way on the final plat unless the State Department of Transportation approves a smaller right-of-way or the project is a ***MINOR SUBDIVISION*** as defined in these regulations.

(1) *Exemptions.* The following subdivision roads shall be exempt from meeting secondary roads specifications of NCDOT:

- (a) Roads in minor subdivisions where no adjacent land is owned or under option to the subdivider (one- and two-lot subdivisions only).
- (b) Roads which are unpaved but are maintained by the State Department of Transportation.
- (c) Roads which cannot be built to NCDOT standards without violating any local, state, or federal laws. (Related to wetlands and marshes.)
- (d) Roads within a planned unit development where a homeowner's association has been formed to maintain a private road.
- (e) Roads within subdivisions where each lot within the subdivision is at least five acres, as defined in § 154.41(C)(7).
- (f) Roads within campground sub- divisions.

(C) General Road Standards

(1) Access

- (A) Where a subdivision is proposed adjacent to a major/minor arterial/collector and access is proposed onto the major/minor arterial by driveways and/or intersecting roads, said driveways and/or intersecting roads may be required to be separated according to North Carolina Department of Transportation or Davie County standards, whichever permits the freer and safer flow of traffic.
- (B) Where a subdivision is proposed adjacent to major/minor arterial or major collector, lots shall be required to have no direct access to such roads if alternative access from a road of lower classification is possible.
- (C) *Access to Major Thoroughfares*
 - (a) It is the intent of this regulation to limit access onto a major thoroughfare where appropriate, in order to maintain the traffic capacity and encourage smooth traffic flow
 - (b) In situations where strict compliance with this provision is impossible or impractical due to topographic conditions, configuration of the parcel to be subdivided, or other condition beyond the control of the subdivider, other approaches may be permitted or the property owner may be exempted from the requirements (c) and (d), below
 - (c) Where a tract of land to be subdivided borders on an existing minor arterial or major collector, access from a subdivision or individual lot directly onto a major thoroughfare may be regulated by requiring:
 1. That rear or side yards abut the minor arterial or major collector,

and the front or side yards abut an existing parallel local road; or

2. That a parallel local road be created and that roads internal to the subdivision access the local road at a ninety (90) degree angle. The rear or side yards of terminal lots must abut the major thoroughfare; or
 3. That a marginal access or service road be constructed, parallel to and separated by a buffer strip from, the minor arterial or major collector. The access road may have access to the major thoroughfare at suitable points and shall serve as the principal access road to the subdivision. No direct access from the lots onto the major thoroughfare will be allowed; or
 4. That another access design, such as joint (shared) driveways, be used to achieve the intent of this regulation.
- (d) Where a tract of land to be subdivided borders on an existing or proposed minor collector, access from a subdivision or individual lot directly onto a major thoroughfare may be regulated by requiring:
1. That another access design, such as joint (shared) driveways, be used to achieve the intent of this regulation.
- (e) The following criteria shall be considered when the proposed design for such subdivisions or individual lots is reviewed:
1. The thoroughfare's road classification.
 2. Traffic counts as related to capacity.
 3. Functional classification.
 4. Ultimate cross-sectional design of the major thoroughfare.
 5. The sight distance of approaching traffic from the point where any proposed access intersects the major thoroughfare.

(D) *Turn Lanes on Adjoining Major Thoroughfare*

Where a subdivision is proposed adjacent to a major thoroughfare and access is proposed onto the major thoroughfare, left-turn storage or right-turn deceleration lanes may be required on the major thoroughfare or intersection according to North Carolina Department of Transportation or Davie County standards, whichever permits the freer and safer flow of traffic.

(E) *Major Thoroughfare Right-of-Way Dedication or Reservation*

- (a) Dedication of Right-of-Way Abutting Existing Major Thoroughfares
- If (i) a subdivision site abuts an existing major thoroughfare with a right-of way width less than that recommended in the Davie County Thoroughfare Plan, and
- (ii) development in the proposed subdivision is expected to add a

significant amount of traffic onto that major thoroughfare, then the subdivision shall include dedication of any additional right-of-way along the site's frontage on the major thoroughfare that is needed to widen the right-of way to thirty-five (35) feet from the centerline of the roadway.

(b) Proposed New Thoroughfares

1. Incorporation of Thoroughfare

If (i) the Davie County Transportation Plan proposes a new major thoroughfare across part of a subdivision site, and (ii) an alignment for the thoroughfare has been determined to a reasonable degree of certainty (for example, as a centerline alignment on a functional design plan), and (iii) the thoroughfare could appropriately serve to provide direct access to the subdivision (for example, it would not be a freeway or other restricted-access road), then the subdivision shall incorporate the major thoroughfare into its internal road layout by having one of the subdivision roads run along the proposed thoroughfare alignment. Such road, however, need only be constructed to NCDOT standards for a residential collector road.

2. Reservation of Future Right-of-Way

If (i) the Davie County Transportation Plan proposes a new major thoroughfare - other than one defined in provision 1 - across part of a subdivision site, and

(ii) an alignment for the thoroughfare has been determined to a reasonable degree of certainty (for example, as a centerline alignment on a functional design plan), and

(iii) the County's development regulations reasonably allow the subdivider to both realize the maximum lot density allowed by the site's zoning and physical characteristics and avoid developing that part of the site needed as future right-of -way for the proposed thoroughfare, then the subdivision shall include reservation of the thoroughfare's future right-of-way - that is, it shall not include lots or other development within the land area needed as the thoroughfare's future right-of-way.

Land area needed as future right-of-way shall be determined from NCDOT plans where available, or otherwise by applying half the right-of-way width recommended in the Davie County Transportation Plan along each side of the thoroughfare's proposed centerline alignment.

3. Applicability

If neither provision 1 or provision 2 applies to a proposed subdivision across which a major thoroughfare is proposed, then

no incorporation of the major thoroughfare or reservation of future right-of-way for the major thoroughfare is required.

The Planning Board or Planning Director, as appropriate, may not delay approval of a particular subdivision plan for failure to comply with provision 2 for more than three (3) years after the date the application for plan approval has been accepted by the Planning Director as complete.

(E) *Multiple driveway(street) accesses*

Multiple driveway accesses into a subdivision may be required to provide additional ingress and egress. In determining whether to require multiple accesses, the Project Review Committee shall consider the following:

- (1) The overall number of lots served by the street system;
- (2) The number of interconnections with adjoining properties
- (3) The proposed street system pattern;
- (4) The configuration of the tract of land; and
- (4) The amount of road frontage available.

(2) *Street layout.*

(A) The proposed street layout within a subdivision shall be coordinated with the existing and proposed road network within the surrounding area (as established on adopted transportation plans and the road layout within existing and approved subdivisions in the general area), including the extension and interconnection of roads between adjacent properties where appropriate to the development of a local road network. A network of extended and interconnected local roads is intended to provide each parcel in the general area the safe, convenient, and efficient means of access that will ensure the orderly development of the parcel and the area, provide a wholesome community environment, ensure the effective and efficient provision of emergency and other public services, and help to avoid degradation of existing roads and highways.

(B) *Required Road Extensions to Adjoining Property*

A proposed road shall be extended to an adjacent property, or a connecting road shall be provided to the adjacent property, wherever such extension or connection is deemed desirable to the development of a local road network serving the general area.

- (1) If it is determined that the required road extension or connection should serve as part of a through road within a local road network, or as part of a non-through road that would provide access to an area with a development potential of more than twelve (12) dwelling units, it shall

- be:
- a. designed and constructed as a public road to the adjacent property; and
 - b. located so as to best ensure the safe, convenient, and efficient movement of traffic within a local road network as well as the orderly development of adjacent properties.
- (2) If the road to be extended or connected to an adjacent property cannot serve as part of a through road within a local road network because physiographical characteristics (for example, rivers, lakes, ponds, steep slopes, or flood hazard areas) or other intervening man-made characteristics (for example, railroads, freeways, parks, or existing development) make it impractical to extend the road beyond the adjacent property, and it would provide access to an area with a development potential of twelve (12) dwelling units or less, the subdivider shall grant an easement for the road to the benefit of the adjacent property. The easement shall:
- a. give the current and future owner(s) of the adjacent property the right to construct the road as either a public or private road and to dedicate the easement as a public road right-of-way if the road is constructed as a public road; and
 - b. have a right-of-way width, and include adjacent construction easements, necessary to allow the construction of a public road meeting the standards of the subdivision ordinance.
- (3) *Guidelines for Requiring “Stub Roads” to Adjoining Properties*
- (1) Stub roads to adjacent properties shall be required in order to allow for orderly development of the road network. Therefore:
 - (a) The orderly development of the road network necessitates that at least two means of access will be provided to the subdivision and to all lots within the subdivision except where properties are accessed by a cul-de-sac conforming with Section 154.41-C-3 of the Subdivision Ordinance.
 - (b) All adjacent properties must be considered when determining appropriate locations for stub roads. No more than one stub road shall be required for the sole purpose of providing access to a single landlocked parcel, but more than one may be required for the purpose of good traffic flow.
 - (2) Stub roads to adjacent properties shall be required except when the Planning Board or Planning Director, as appropriate, determines that:
 - (a) Physical barriers or environmentally sensitive area should not be crossed (for example, railroads, watercourses, steep topography, or flood areas).
 - (b) The stub road would connect properties where the zoning or land uses are incompatible, and the connection would create traffic

- detrimental to residential land uses.
- (c) There is a large discrepancy in the size of the adjacent parcel (A smaller parcel being subdivided may not have to provide a stub to a much larger parcel, if other, more desirable, interconnections are available to the large parcel.).
 - (d) The stub road would eventually provide a direct connection between thoroughfares which would encourage through traffic at levels inappropriate for the type of road provided (For instance, it might be appropriate to provide such a connection with a collector road rather than with a local access road.).
 - (e) The stub road would connect to property for which development rights have been sold for a public purpose and access to the property is not desirable for orderly development of the road network.
- (3) Stub roads should be designed, constructed, and maintained according to applicable standards of the North Carolina Department of Transportation for the following reasons:
- (a) To circumvent dispute regarding responsibility for maintenance and who has the right to use the road.
 - (b) To allow neighboring subdivisions to build adjoining public roads.
 - (c) To avoid legal issues of requiring a dedicated strip to be paved at a later date than subdivision approval.
 - (d) The existence of a road, which may be extended, is known to buyers and subsequent owners of neighboring properties.
- (d) The following standards apply to all stub roads:
- (a) A temporary turnaround (either a standard bulb cul-de-sac must be provided at the end of any stub road in excess of 400 feet in length that is planned for extension into future sections of the subdivision or onto adjacent property. Temporary turnarounds must comply with the following:
 - i. The turnaround must be constructed in a temporary easement, located either on-site or off-site;
 - ii. The developer of the adjacent property making a road connection to the existing stub road shall be responsible for the removal of the turnaround and for the restoration of the area at the time that the road connection is made;
 - iii. The turnaround must comply with the cul-de-sac dimensional standards of this section; and
 - (b) Additionally, any plat containing a stub road shall include the following note:

“The road system shown on this plat includes one or more stub roads that are intended to be connected to the adjacent property at such time that the property is developed. The interconnection of neighborhoods with a road network ensures the efficient flow and dispersal of traffic

and provides for additional points of ingress and egress for emergency vehicles.”

(3) Cul-de-sacs length.

- (a) Cul-de-sacs shall be no less than 200 feet nor more than 1320 feet in length, except where in the opinion of the Planning Board or Planning Director existing topography or size of the parcel require a modification.
- (b) A cul-de-sac's length is measured from the center point of its turnaround, along the centerline of its right-of-way and that of any intervening roads, to the centerline of the right-of-way of the nearest through road.
- (c) Permanent cul-de-sac roads shall be provided at the closed end with a circular turnaround having a minimum driving surface radius of thirty-five (35) feet and minimum right-of-way radius of fifty (50) feet. At the point where the road widens into the cul-de-sac, the driving surface shall have a minimum turn radius of thirty-five (35) feet, and the right-of-way shall have a minimum radius of twenty-five (25) feet.

(4) *Block length.*

(5) *Block widths.*

(6) *Intersection Design.* Corners and intersections shall be designed as follows:

- (a) All roads shall intersect as nearly as possible at right angles, and no road shall intersect with another at an angle of less than sixty (60) degrees. Other arrangements may be approved only if they will reduce traffic hazards and provide smooth traffic flow at an intersection.
- (b) When a center line offset (jog) occurs at an intersection, the distance between the center lines of the intersecting roads shall not be less than one hundred thirty-five (135) feet.
- (c) An intersection shall not include more than four (4) road approaches.
- (d) The edge of pavement at intersections shall be rounded with the following radii minimum:
 - i. Private roads with private roads: Twenty-five (25) feet
 - ii. All other intersections: Thirty (30) feet
- (e) Adequate sight distances shall be provided at all intersections between streets and at driveway intersections with streets.

(7) *Reserve Strips and Non-Access Reservations*

- (A) Reserve strips or non-access reservations that control access to roads, waterways, parks or the like, and other reserved strips shall be permitted only if their purpose, location, dimensions and manner of control is approved by the Planning Board, Planning Director as appropriate.

(8) *Construction plans.* Plans for proposed public streets shall be approved by NCDOT and the Davie County Planning Department prior to commencement of construction activities and final plat approval.

(a) *Roads Must Meet Standards*

Any extension of an existing road or any creation of a new road must meet or exceed the standards of this Ordinance

- (b) Minimum construction standards for non-state-maintained roads in subdivisions with each lot containing at least five acres shall be those set forth in “Subdivision Roads Minimum Construction Standards” by the State Department of Transportation (July 1, 1979 and subsequent amendments) except for the requirements of a stone base and paved surface. No graded road shall be muck, pipe clay, organic matter, or other unsuitable material. A minimum right-of-way of 50 feet shall always be required.

(1) A three (3) inch paved or concrete apron shall be provided for a non state maintained road or access easement that proposes connection to an existing state system road. Such apron shall be the width of the travel portion of the road and extend a minimum of fifteen (15) feet from the edge of the state system road.

(C) *Permits for connection to state roads.*

- (d) An approved state department of transportation driveway connection permit is required for the following:
- i. Connection of a subdivision street to any existing state system road.
 - ii. Any new lot that is created and proposes access to any existing state system road that is identified as a major or minor arterial in the Davie County Transportation Plan.
 - iii. Three or more lots created and proposing access to any existing state system road.
 - iv. Any access easement that is created to serve 2 or more lots that propose access to any existing state system road.

- (b) This permit is required prior to any construction which connects the subdivision road, driveway or access easement to the state system road and shall be submitted prior to final plat approval.

(9) *Setbacks.* Setbacks for five acre lots shall be the same as required in § 154.42(C)(5) below.

(10) *Disclosure statement.* A subdivision street disclosure statement shall be issued in accordance with G.S. § 136-102.6, designating the appropriate person, homeowner's association, or other group that will maintain the non-state-maintained streets in each subdivision in the future.

(11)*Road Names*

The names of the streets shall not duplicate the name of any existing road or street within the county and shall be approved by Davie County GIS/Addressing prior to final plat approval.

(12)*Road Signs*

The subdivider shall be required to reimburse Davie County for providing and placing street name signs to county standards at all intersections within the subdivision. This fee shall be paid before final plat approval.

(13) *Non-Residential Subdivision Design Standards.*

(A) The design standards as set forth in this Section are the minimum design standards to be used by the non-residential subdivider. Unless otherwise set forth, the standards and procedures established elsewhere in this Chapter as applicable to all subdivisions shall apply to non-residential subdivisions as well.

(B) In non-residential subdivisions, the streets and other access ways shall be planned in connection with: the groupings of buildings; location of rail facilities; provision of alleys; truck loading and maneuvering areas; walks and parking areas so as to minimize conflict of movement between the various types of traffic.

(C) In industrial subdivisions, collector streets shall be planned to serve industrial areas exclusively and shall connect with arterial streets so that no industrial traffic will be directed onto any residential streets.

(D) Street rights-of-way shall be planned to be extended to the boundaries of any adjoining land planned for industry, except for severe physical conditions or if the Project Review Committee finds such extension is not in accordance with the approved plans of the area.

(E) Notwithstanding the other provisions of this chapter, the minimum width of streets adjacent to areas designed, proposed or zoned for commercial or

industrial use may be increased by the Planning Director or Project Review Committee to such extent as may be deemed necessary to assure the free flow of through traffic without interference from parked or parking motor vehicles.

- (1) A Street serving an industrial/commercial subdivision shall have a minimum right-of-way width of 50 feet, and a 36 foot paved section. Additional right-of-way and pavement may be required at intersections for deceleration lanes and turn lanes, as specified by NC DOT or Davie County Project Review Committee.
- (2) When lots or blocks in a proposed commercial or industrial subdivision front on any limited access highway or arterial street, the subdivider may be required to dedicate and improve a marginal access street to provide ingress and egress to and from such lots or blocks.
- (3) Permanent cul-de-sac roads shall be provided at the closed end with a circular turnaround having a minimum driving surface radius of forty-five (45) feet and minimum right-of-way width of one hundred (100) feet. At the point where the road widens into the cul-de-sac, the driving surface shall have a minimum turn radius of thirty-five (35) feet, and the right-of-way shall have a minimum radius of twenty-five (25) feet.
- (4) Off-street loading shall be arranged to eliminate street maneuvering by vehicles using loading facilities.
- (5) Commercial/Industrial Driveway main entrances shall have a minimum throat width of 35 feet. If a raised median is provided in the driveway throat, the driveway width shall be widened as necessary to accommodate the number of ingress and egress lanes required, with a minimum ingress lane width of 18 feet. The minimum driveway median width shall be 4 feet and the maximum width shall be 10 feet. The nose of the median shall be no less than 7 feet and no more than 15 feet from the gutter flow line.

(Ord. passed 3-21-94; Am. Ord. 11-6-06)

§ 154.42 LOTS.

(A) *Design standards.* Lots sizes, shapes, and locations shall be made with due regard to topo-graphic conditions, soil types, contemplated use, and the surrounding natural and manmade uses. Land designated as a floodplain by the Federal Emergency Management Agency (FEMA) shall always be designated on all lots, tracts, or plats when presented. Under no circumstances will required lot areas contain street rights-of-way.

(B) Every lot shall front on or abut a minimum of 25 feet on a publicly-dedicated or maintained street except in PUD areas that have been approved by the County Planning Board.

(C) Lots shall comply with the following requirements:

(1) Lots served by both public water and public sewer shall have an area not less than 8,000 square feet, a width at the building line of not less than 70, nor be less than 100 feet deep. Planned unit developments are exempt.

(2) Lots served by public water but not by public sewer shall have an area not less than 30,000 square feet, a lot width at the building line of not less than 80 feet, nor be less than 150 feet deep. Planned unit developments are exempt.

(3) Lots served by neither public water nor public sewer shall have an area not less than 40,000 square feet, a lot width at the building line of not less than 100 feet, nor be less than 150 feet deep. Planned unit developments are exempt.

(4) No driveway on any lot shall be located within 30 feet of a street right-of-way intersection.

(5) The minimum building setback from the property line or road right-of-way line shall be specified in the county zoning chapter.

(6) Any part of the property located in the road right of way shall not be included in the minimum lot area.

(8) Townhouses. Townhouses and other types of attached single-family structures shall:

(a) For lots with individual septic tanks, all shall comply with the minimum lot area requirements of § 154.42(C)(2) and § 154.42(C)(3) or by a combination of lot area and open space.

(b) Lots served by public water and public sewer shall have:

1. A minimum lot size of 2,000 square feet and a minimum lot width of not less than 20 feet;

2. A front yard setback of not less than 30 feet;

3. A rear yard setback of not less than 30 feet; and

4. No side yard setback requirements except on corner lots. This corner side yard setback shall not be less than ½ the front yard setback requirement measured from the exterior building line of the principal structure.

(c) Five-foot access easements shall be reserved in each rear yard and ten-foot access easements shall be located between each principal building.

(d) No dwellings shall be connected on more than two sides by common walls.

(e) Each townhouse shall be provided with at least two parking spaces, 10 × 20 foot in size.

(9) Recreation and open space.

(a) *Requirement.* Every person or corporation that subdivides land for residential purposes under the requirements contained in these regulations shall also be required to dedicate a portion of such land; to provide cash-in-lieu-of-land payment; or to provide a combination of land, cash, and facility development acceptable to the county for the purposes of developing park, recreation, and open space sites to serve the residents of the neighborhood in which the subdivision is located or in the immediate area of the subdivision. Subdivisions which develop and maintain their own park or recreational areas that meet or exceed the standards set forth herein are exempt. Planned unit developments are exempt.

(b) *Amount of land.*

1. The amount of land required to be dedicated by a subdivider shall be based on:

- a. The total number of dwelling units or lots;
- b. The most recent US Bureau of the Census figures for an average family size in Davie County;
- c. Minimum park and recreation standard factor of eight acres per 1,000 persons or .008 acres per person; and
- d. A variable density factor.

2. *Example 1.* 100 dwelling units x 2.5 (average family size) x .008 (recreational standard) x 1.0 (variable density factor) = 2 acres dedicated for recreation.

(c) *Variable density factor table.*

| <i>Acreage Average per Dwelling Unit or Lot</i> | <i>Variable Density Factor</i> |
|---|--------------------------------|
| 0.0 - 0.1 | 1.8 |

| | |
|--------------|-----|
| 0.1 - 0.2 | 1.6 |
| 0.2 - 0.3 | 1.4 |
| 0.3 - 0.4 | 1.2 |
| 0.4 - 0.5 | 1.0 |
| 0.5 - 0.6 | 0.9 |
| 0.6 - 0.7 | 0.8 |
| 0.7 - 0.8 | 0.7 |
| 0.8 - 0.9 | 0.6 |
| 0.9 - 1.0 | 0.5 |
| 1.0 or above | 0.0 |

(d) *Acreage average per dwelling unit.* Acreage average per dwelling unit or lot is computed by dividing the combined total acreage of all dwelling units or lots by the number of dwelling units or lots. For computation purposes, land dedicated or reserved for other purposes such as streets, alleys, and other purposes other than residential shall not be used in determining average acreage. In no case shall a developer be required to dedicate more than 30% of the acreage of a development.

(e) *Variable density factor.* Variable density factor is designed to provide an adjustment to subdivision plats which contain average lot sizes of 0.5 acre and above. This adjustment is used since subdivisions with larger lots contain more open space, and thus, fewer lots and greater park acreage. Conversely, those subdivision plats that create lots or units which average less than 0.4 acres are adjusted due to the density of development and the inherent increased demand for more public recreation and park land. The adjustments for large lots or for small lots are based on a sliding scale reflecting degree of density.

(f) *Criteria for evaluating suitability.* Criteria for evaluating suitability of proposed recreation, parks, and open space areas shall include but not be limited to the following as determined by the County Planning Board in consultation with the Mocksville-Davie Recreation Department:

1. *Unity.* The dedicated land shall be a single parcel except where it is determined that two or more parcels would be in the public interest. The Planning Board may require that the parcels be connected by a path up to 30 feet in width in addition to the recreation land requirement.

2. *Location.* The dedicated land shall be located so as to serve the recreation needs of the immediate neighborhood within the subdivision.

3. *Useable land.* The shape, topography, and subsoils of the dedicated land shall be such as to be useable for parking and active recreation. Lakes and marsh may not be included in computing dedicated land area unless acceptable to the Planning Board.

4. *Accessibility.* Public access to the dedicated land shall be provided either by an abutting street or public easement. Such public easement shall be at least 30 feet in width.

(g) *Permissible amounts.* A developer may use the figure of \$5,000 per acre of dedicated recreational land or market value, whichever is less, as required in § 154.42(C)(9)(b) of these regulations. The county shall purchase recreational land or areas to serve the subdivision or development in the immediate area.

(h) *Dedication adjustments.* The Planning Board may, in cases of an unusual or exceptional nature, allow adjustments in the dedication requirements established in these regulations. Such adjustments shall be reviewed by the County Recreation Department. An unusual or exceptional nature may include but not be limited to land within the development set aside for private recreation or proposed expenditures for recreational facilities or equipment.

(i) *Expenditures of recreation funds.* Expenditures of recreation funds shall be determined by the County Board of Commissioners.

(j) *Excess donation.* If the land donated in a section of a subdivision exceeds the requirement in § 154.42(C)(9)(b), the difference can be applied to future sections.

(k) *Future plans.* If the overall master plan of a subdivision shows future recreation areas not included in the section receiving final plat approval, the donation of recreation land (or fees) shall not be required. However, if the amount of recreation land required by these regulations are not developed within one year of final plat approval, § 154.42(C)(9)(b) or § 154.42(C)(9)(g) shall immediately apply.

(l) *Cash-in-lieu-of-land payments.* Cash-in-lieu-of-land payments shall be spent only on capital improvements for county-sponsored recreational programs.

(10) Campground subdivision.

(a) The minimum size of a campground subdivision shall be one acre.

(b) Gross density shall not exceed 20 lots per gross acre.

(c) Each lot shall be clearly staked in accordance with these regulations.

(d) One all-weather (for example, stone or other suitable material) automobile parking space shall be provided for each lot, to be located outside of any public right-of-way or any street within the subdivision.

(e) Each lot shall abut upon an improved road of at least 20 feet in width, which shall be covered with at least four inches of stone or other approved surface and which shall have access to a public street or road. Road maintenance agreements shall be prepared whereby the road is maintained by a subdivision association or other suitable arrangement.

(f) Each subdivision shall be served by a sewer system approved by the County Health Department or the State Department of Environment, Health, and Natural Resources, Division of Environmental Management.

(g) Each lot shall be served by a public water system approved by the County Health Department or the State Department of Environment, Health, and Natural Resources, Division of Environmental Health, Public Water Supply Section.

(h) A central service building containing the necessary toilet and other plumbing and electrical fixtures shall be provided. It shall be located within or immediately adjacent to the sub-division. If the subdivision is divided by a state-maintained road, a central service building shall be provided on each side of the road. The service buildings shall meet all state and county requirements. There shall be at least one shower, one lavatory, and one commode for each ten lots.

(i) A sanitary station shall be provided consisting of at least: a trapped four-inch sewer riser pipe connected to the subdivision sewer system surrounded at the inlet by a concrete apron sloped to the drain and provided with a suitable hinged cover and a water outlet to permit periodic washdown of the immediate adjacent area.

(j) Permanent or semipermanent structures or any vehicle designed as permanent living quarters shall not be allowed. These structures shall include but not be limited to: porches, carports, awnings, or any other structure not intended to be temporary.

(k) Minimum lot and setback requirements:

1. *Lot size.* 1,500 square feet;
2. *Lot width.* 30 feet.

(l) All central service buildings, swimming pools, water and sewer facilities and other services for the use of lot owners shall be maintained by a lot owners' association.

(m) All common open space must be conveyed by the following method: by leasing or conveying title (including beneficial ownership) to a corporation, association, or other legal entity.

(n) The terms of such lease or other instrument of conveyance must include provisions suitable to the Planning Board to guarantee:

1. The continued use of such land for the intended purposes;
2. Continuity of proper maintenance for the portions of the open land requiring maintenance; and
3. When appropriate, the availability of funds required for such maintenance.

(o) Campground subdivisions shall reserve not less than 20% of gross acreage as open space. The open space should be proportionally distributed throughout the total residential area as nearly as possible.

(p) A minimum of 25% of the required open space shall be developed for recreational purposes and the recreation space may be located in one or more sites within the total subdivision. Recreation space may be natural or landscaped for the use of active or passive recreation.

(q) The developer shall file in the office of the Register of Deeds of the county legal documents which will produce the aforesaid guarantees and will provide a method for restricting the use of common space for the designated purposes prior to the sale of any lot or lots.

(r) All other appropriate standards, procedures, and requirements of these regulations shall pertain to campground subdivisions if they are not addressed in § 154.42(C)(10).

(11) Water lines. All water lines and related appurtenances installed in subdivisions under the authority of these regulations shall be built to standards of the county, if connected to the County Water System. Plans shall be approved by the county and the State Department of Environment, Health, and Natural Resources, Division of Environmental Health.

(Ord. passed 3-21-94; Am. Ord. 10-3-11)

§ 154.43 EASEMENTS.

(A) *Drainage easements.* Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of the stream, and of sufficient width to be adequate for the purpose.

(B) *Buffer strips.* A buffer strip of up to 20 feet in width may be required by the Planning Board adjacent to a major street or commercial or industrial area. This strip shall be in addition to the normally required lot dimension; shall be part of the platted lot; and shall be reserved only for the planting of trees and shrubs by the developer.

(Ord. passed 3-21-94)

§ 154.44 SUITABILITY OF LAND.

Land subject to flooding, improper drainage, or erosion, or that is for topographical or other reasons unsuitable for residential use as determined by the Planning Board, shall not be platted for residential use nor for any other uses that will continue or increase the danger to health, safety, or property unless the hazards can be, and are, corrected.

(A) *Prevention of flood damage.* Lands known to be within a floodplain or any area known to be subject to flooding shall be identified on the preliminary and final plats. Appropriate deed restrictions shall be filed for those lands subject to flooding prohibiting their development for dwelling or other uses unless the sites are flood-protected as follows. (See also the flood damage prevention chapter.)

(1) No structures or fill shall be placed in the floodway which would interfere with the natural watercourse;

(2) Streets and utilities lines and structures may be placed within the floodplain only if their elevation is raised above maximum flood heights or if they are otherwise flood-protected; and

(3) Dwellings and self-contained sewage disposal units (if used) shall be built at an elevation above maximum flood heights.

(B) *Fill areas.* Areas that have been used for disposal of solid waste shall not be subdivided into commercial or residential building sites. This shall include those areas that have been used for the disposal of trash, demolition waste, and other waste materials.

(Ord. passed 3-21-94)

§ 154.45 STORMWATER DRAINAGE.

(A) *Requirement.* The subdivider shall provide an adequate drainage system for the proper drainage of all surface water. The design of such a system shall be approved by the County Planning Board and the State Sedimentation Pollution Control Act of 1973, G.S. §§ 113A-50 through 113A-60.

(B) *Surface water.* No surface water shall be channeled into a sanitary sewer.

(C) *Existing systems.* Where feasible, the subdivider shall connect to an existing storm drainage system.

(D) *New surface drainage systems.* Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage. The ten-year storm data should be used as a minimum basis for storm drainage design as available.

(Ord. passed 3-21-94)

§ 154.46 PLACEMENT OF MONUMENTS.

Whenever a person, firm, or corporation shall divide any parcel of real estate into lots and lay-off streets, it shall be the duty of the surveyor to cause two or more monuments of such development to be designated as “control corners” and to place at such control corners monuments adequately marked which shall be of such material and affixed to the earth in such manner as to assure a great degree of permanency (G.S. § 39-32.1). Any lot or lots sold or otherwise transferred and located in a subdivision and described by metes and bounds shall be described in a manner to include reference to the location of the lot or lots with respect to the subdivision's control corner if such exists (G.S. § 39-32.4). All monuments shall be shown on the final plat.

(A) *Property corner tie.* At least one corner of the property surveyed shall be designated by course and distance (tie) from a control monument as established by the State Geodetic Survey (NCGS) or by the National Geodetic Survey (formerly USC & GS). When the property lying within 2,000 feet of such monument or marker is not available, the tie shall be made to some pertinent and readily recognizable land marker or identifiable point, physical object, or structure. The tie must be shown on the prepared plat by bearing and distance and/or by coordinates, with a statement identifying the markers and certifying an accuracy of at least 1:10,000.

(B) *Markers.* All lot corners, all points where street lines intersect, and all angle points and points of curve in each street shall be marked with rigid metal pipe not less than ½-inch in diameter and not less than 20 inches long. Concrete control markers are also acceptable.

(C) *Standards.* For the purpose of these regulations all land surveying shall be performed in accordance with the “Standard for Practice for Land Surveying” in the state, latest revisions.

(Ord. passed 3-21-94)

§ 154.47 CONSTRUCTION PROCEDURES.

(A) *Plan approval.* No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plans and specifications have

been approved by the Planning Board. Clearing underbrush and draining surface and subsurface water is not included.

(B) *Access.* The administrator of these regulations shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him or her to insure compliance with these regulations.

(C) *Inspection.* The subdivider, prior to starting any work within the subdivision, shall make arrangements with the administrator of these regulations to provide for adequate inspection. All completed work must then be inspected and approved before release of the sureties.

(D) *Erosion control.* The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected by plans approved under the Sedimentation Pollution Control Act 1973 and subsequent amendments.

(E) *Water supply specifications.* All public water systems under the jurisdiction of these regulations shall be built to the specifications of the county unless the system is tied into a municipal system.

(Ord. passed 3-21-94)

§ 154.48 REQUIREMENTS FOR NON-STATE MAINTAINED ROADS.

Minimum construction standards for non-state maintained roads in subdivisions consisting of 10 lots or less, with the developer owning or having no interest in any adjoining property, and with each lot containing at least five acres, shall be as set forth in this regulation. No graded road shall be muck, pipe clay, organic matter or other unsuitable material. A minimum right-of-way of 50 feet shall always be required with four inches of ABC stone, 12-foot wide.

(Ord. passed 4-3-95)

ADMINISTRATION AND ENFORCEMENT

§ 154.60 VARIANCES.

Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of these regulations would cause an unnecessary hardship, the Planning Board may authorize a variance to the terms of these regulations only to the extent that is absolutely necessary and not to an extent which would violate the intent of these regulations. (See §§ 154.61 and 154.62.) Any variances thus authorized shall be noted in the minutes of the County Planning Board.

(Ord. passed 3-21-94)

§ 154.61 VARIANCE PROCEDURES.

(A) The County Planning Board may authorize a variance from the terms and conditions of these regulations when the Board finds that undue hardship may result from strict compliance with the terms and conditions of these regulations. Any requests for a variance shall be signed by the subdivider or his or her duly authorized representative and shall specify in detail the requested variances and the facts and justification of the requested variance. When deciding variance request, the Planning Board shall follow quasi-judicial procedures.

(B) The variance request shall be accompanied by a sketch plan or sketch design meeting the requirements of § 154.22(E) of these regulations. The variance request shall be presented at the same time the preliminary plan or design is considered by the Planning Board.

(C) *Variance request.*

(1) Following consideration of the variance request, the Planning Board may either approve or deny the variance request in whole or in part. In the event the Planning Board grants a variance, it shall be the minimum variance necessary in order to allow the applicant reasonable use of his or her land. Any variance granted by the Planning Board shall require an affirmative vote of two-thirds of the members of the board present at the meeting in which the variance is requested.

(a) *Example 1.* $\times 7 = \frac{14}{3}$ or 4 & or 5 members.

(b) *Example 2.* $\times 4 = \frac{8}{3}$ or 2 & or 3 members.

(2) If the variance requested is denied by the Planning Board, the applicant may appeal to the County Board of Commissioners.

(Ord. passed 3-21-94; Am. Ord. 3-20-06)

§ 154.62 REQUIRED FINDINGS.

In granting any variance, the Planning Board or County Board of Commissioners shall make the findings required below, taking into account the nature of the proposed subdivision and its surrounding area, the existing use of the land in the vicinity, the number of persons to reside or work in the proposed subdivision, the probable affect of the proposed subdivision upon traffic conditions in the vicinity, public services available to the subdivision (fire, rescue squad, public utilities, and the like), and other health and safety factors which may have an affect upon the subdivision and the property owners and residents therein. The variance shall be denied unless the County Planning Board or County Commissioners shall find from the evidence:

(A) That there are special circumstances or conditions affecting the property such that the strict application of the provisions of these regulations would deprive the applicant of the reasonable use of his or her land; and

(B) That the variances are necessary for the preservation and enjoyment of a substantial property right of the applicant; and

(C) That the circumstances giving rise to the need of the variance are peculiar to this parcel of land (its location, size, history of development, or relationship to surrounding properties, easement, and the like) and are not generally characteristics of other parcels in the jurisdiction of these regulations; and

(D) That the granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to other property in the territory in which the property is situated.

(Ord. passed 3-21-94)

§ 154.63 REGISTRATION OF REGULATIONS AND PLATS.

(A) In accordance with G.S. § 153A-332, the Board of County Commissioners shall file a copy of these regulations with the Register of Deeds of the county upon adoption.

(B) The Register of Deeds shall not, after the effective date of these regulations, record a plat of subdivision of land lying within the jurisdiction of these regulations that has not been approved in accordance with the provisions contained herein; nor shall the clerk of superior court order the recording of a plat if the recording would be in conflict with the provisions or intent of these regulations.

(Ord. passed 3-21-94)

§ 154.64 AMENDMENTS.

The County Board of Commissioners may from time to time amend the terms of these regulations, but no amendment shall become effective unless it shall have been proposed by, or shall have been submitted to, the Planning Board for review and recommendation. The Planning Board shall have 40 days within which to submit its recommendation. Failure to do so shall be deemed to have recommended approval of the amendment. A public hearing shall then be held by the Board of County Commissioners.

(Ord. passed 3-21-94)

§ 154.65 ABROGATION.

It is not intended that these regulations repeal, impair, abrogate, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or

permits previously adopted or issued pursuant to law. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

(Ord. passed 3-21-94)

§ 154.99 PENALTY.

After the effective date of these regulations, any person who, being the owner or the agent of the owner of any land located within the jurisdiction of these regulations, intentionally violates these regulations shall be guilty of a misdemeanor, for the conviction of which the maximum penalty permitted by law as set forth in [§ 10.99](#) may be imposed. Each day's continuing violation is a separate and distinct offense.

(Ord. passed 3-21-94)

APPENDIX: WATER SUPPLY SYSTEMS

Section

1 Water supply systems

§ 1 WATER SUPPLY SYSTEMS.

(A) Water supply systems serving 15 or more connections and/or 25 or more people are classified as public water supplies by state law and plans and specifications must be approved by the State Department of Environment, Health, and Natural Resources, Division of Environmental Health, Public Water Supply Section.

(B) Water supply systems serving from two to 15 connections, inclusive, may be regulated by the County Board of Health and plans should be approved by the County Health Department.

(C) Plans for public and community sewer systems constructed for subdivisions which will result in new discharges of effluent into surface waters must be approved by the County Board of Adjustment and the State Department of Environment, Health, and Natural Resources, Division of Environmental Management. Permit applications shall be filed at least 180 days in advance of the planned discharge.

(D) Individual water supplies should be located, constructed and operated in accordance with State Division of Health Services Bulletin Number 476, "Protection of Private Water Supplies."

(E) Individual sewage disposal systems must be installed and maintained in accordance with the "Rules and Regulations Governing the Disposal of Sewage from any Residence, Place of Business or Place of Public Assembly" in the state and the

regulations of the County Board of Health. State Division of Health Services Bulletin Number 519 “Residential Sewage Disposal Plants,” contains helpful information.

(Ord. passed 3-21-94)

[Disclaimer:](#)